

MINUTES OF THE MEETING
OF THE CITY COUNCIL OF THE
CITY OF BURLINGTON
February 21, 2006
9:00 A.M.

The City Council of the City of Burlington held a regularly scheduled meeting in the Council Chamber, Municipal Building, 425 South Lexington Avenue, Burlington, N. C., 27216-1358, on February 21, 2006, at 9:00 a.m.

Mayor Stephen M. Ross presided

Invocation: Councilmember Starling

Councilmembers present: Mayor Ross, Councilmembers Huffman, Starling and Wall

Councilmembers absent: Jones

Harold Owen, City Manager, present

Robert M. Ward, City Attorney, present

Jondeen D. Terry, City Clerk, present

RECOGNITION:

John Walton - Tournament of the Year - Burlington Junior Novice Tennis Tournament

Ms. Joan Kimbro - United Way Coordinator - City of Burlington

MINUTES

Mayor Ross called for approval of the minutes of the work session of February 6, 2006, and the City Council meeting of February 7, 2006.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to approve the minutes of the work session of February 6, 2006, and the City Council meeting held on February 7, 2006.

ADOPTION OF AGENDA

Upon motion by Councilmember Starling, seconded by Councilmember Wall, it was resolved unanimously to adopt the agenda.

CONSENT AGENDA:

- A) The City Council will consider adopting a resolution to set a date of public hearing for March 7, 2006, 7:30 p.m., to consider, under public interest authority, water improvements on Rockwood Avenue from West Front Street northwardly to the dead end.

06-04

PRELIMINARY RESOLUTION PROVIDING FOR A PUBLIC HEARING ON PROPOSED LOCAL IMPROVEMENTS

WATER IMPROVEMENTS:

ROCKWOOD AVENUE FROM WEST FRONT STREET TO THE DEAD END

WHEREAS, said portions of said streets are without a public water system and can be served with a public water system owned by the City, and a public water system should be provided in the public interest:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURLINGTON:

- Sec. 1. That in the judgment of this governing body, public interest requires that a six-inch water line be installed on Rockwood Avenue from West Front Street to the dead end.
- Sec. 2. That the abutting properties will be benefited by such improvements in an amount at least equal to the costs thereof to be assessed against said abutting properties.
- Sec. 3. That the foregoing improvements be made under the authority of the Charter of the City of Burlington Section 6.61 et seq., and particularly Section 6.68 thereof.
- Sec. 4. That, if said local improvements are ordered made in accordance with the provisions of the Charter of the City of Burlington Section 6.61 et seq., and particularly Section 6.68 thereof, such proportion of the cost of each

of such improvements as is herein specified will be specially assessed against the property abutting on the street or streets according to lot size, such assessments to be made subject to the right and duty of the City Council to revise such assessments, if necessary, as provided by said law, to the end that no assessment shall exceed the actual benefits resulting from the improvements to the land against which such assessment is made, and further the assessment shall not exceed \$1,000.00 or \$500.00 per acre, whichever is greater, for water mains.

Sec. 5. That the abutting property owners to be assessed shall have the privilege of paying for the assessment in cash or in five (5) equal annual installments at the rate of eight-percent (8%) per annum on the unpaid balance.

Sec. 6. The owners of all properties abutting on said streets, as hereinabove described, are hereby notified that a public hearing be held by the City Council at 7:30 p.m. on the 7th day of March 2006, in the Council Chamber, Municipal Building, Burlington, North Carolina, to determine finally whether said improvements shall be made.

Sec. 7. This notice is hereby given that all objections to the legality of the making of said proposed improvements shall be made in writing, signed in person or by attorney, and filed with the City Clerk at or before the time of the hearing herein designated, and that any objections not so made will be waived.

Sec. 8. That notice of this resolution shall be given by publication one time in the Time-News not less than ten days prior to the date fixed for the hearing, and also by mailing to each known owner of abutting property a copy of this resolution by certified or registered mail not less than five (5) days prior to the date fixed for the hearing.

Sec. 9. That this resolution shall take effect upon passage.

B) To approve a request from Front Street United Methodist Church to hold a triathlon on Saturday, July 29, 2006, at Lake Cammack.

City Manager Harold Owen asked that Item A be moved to New Business.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to approve Item B on the consent agenda.

UNFINISHED BUSINESS:

SALE/RENOVATION - CABOOSE - CITY PARK (CONTINUED FROM FEBRUARY 7, 2006, CITY COUNCIL MEETING)

Mayor Ross announced that a public hearing had been continued to hear citizens' comments on the renovation/sale of a caboose located at the Burlington City Park. (CONTINUED FROM THE FEBRUARY 7, 2006, CITY COUNCIL MEETING.)

City Manager Harold Owen stated that at the last Council meeting the City Council gave Ms. Hobgood the go-ahead to begin her efforts in renovating the caboose at the Depot. He also stated that a written request was given that night at the Council meeting concerning the potential use of the caboose at City Park and as a result of that information the City Council voted to continue the public hearing to further discuss the future of the caboose located at City Park.

Mr. Arthur Enoch, representing Michael Graves and citizens for the restoration of the City Park caboose, stated that Mr. Graves and this group had been working to get donations through individuals, corporations and various organizations including volunteers to make the renovations. Mr. Enoch stated that the City would not incur any cost for doing the renovations. He stated that Mr. Graves had promised to take care of any shortfalls in areas that the group might not be able to raise enough money. He stated that Gary Wiley would handle the artwork and would be soliciting other artists to assist him. He stated that historical documents and photographs would be used to bring the caboose back to its originality both inside and outside. He stated that the group would like to do a small-scale picture of citizens of Burlington boarding the caboose. Mr. Enoch stated on the inside of the caboose the group would like to have a museum motif using a combination of murals and plaques with historical data to be used as an educational tool. He stated that he did not know if the liability would concern the volunteers working on the unit or just on the unit. He stated that the City should handle the liability on the caboose since it was located in the park and was City property and the same for providing security. He stated that the group would expect on a regular daily basis for the City to provide the upkeep and maintenance as it does with the rest of the park but that they would as a group and do touch-ups.

Councilmember Wall asked if he or Mr. Graves had a timeline for the project, and Mr. Enoch replied that he had not discussed a timeline with Mr. Graves.

Councilmember Huffman stated that he visited the City Park caboose and that Ms. Hobgood was trying to tie in the history from the Depot into the downtown caboose. He stated that he did not want a museum at the park nor should it be finished as something that had a historic value to it. He asked if it could be made safe for kids to play on and would there be an issue of liability.

Councilmember Starling expressed concern about security and safety. He questioned even after money was spent on it, how long would it last and if liability would be an issue.

Recreation Director Tony Laws stated that the Depot caboose sat next to a major thoroughfare and was in an open area where it was highly visible. He explained that the caboose at the City Park was inside the amusement area and was not visible from the street. Mr. Laws stated that the original plan for this caboose was to make it a rental facility for children's birthday parties but staff had problems with accessibility and making it handicap accessible. He stated that he received an email from an organization in Gold Hill, North Carolina, that would be interested in purchasing the caboose at the City Park.

Councilmember Huffman asked how the Caboose was currently being used, and Mr. Laws stated that children climbed on it.

Councilmember Wall stated that there was a proposal on the table to renovate the outside of the caboose and asked what would the City have to lose, and Mr. Laws stated that it would continue to be a target for vandalism.

Mr. Owen pointed out that the surface under the equipment was a major liability issue and that the caboose was located in a flood plain. He stated that the City would have to install a fall surface under the equipment such as sand, a rubber surface or woodchips, and then build a retaining wall on the far side of the creek to deter water from flooding the caboose area.

Councilmember Huffman asked if it would be practical to have the caboose open for kids to play inside.

Councilmember Wall inquired about repairing the outside and closing the inside. He stated that if the public truly wanted to keep the caboose, paint it, let Mr. Graves do what he wanted to do with the outside of it and leave the inside alone.

Ms. Anne Hobgood stated that in the beginning when she started this process she was here to save two cabooses, but that she had decided to save the Depot caboose and expressed appreciation to the Council for allowing her to do the renovations. She said that the National Historic Railway in Greensboro would like to talk to the Council if members decided to sell the caboose. Ms. Hobgood stated that the National Historic Railway estimated a cost of \$30,000 to renovate the caboose at the park.

Mr. Graves stated that the criteria that was once given for both of the cabooses was for someone to step forward and take charge of the project and that had been done.

Mr. Graves stated that he approached this as two separate projects and did not converse with Ms. Hobgood about what she would be doing. Mr. Graves stated that his group came up with the idea of the caboose being an educational tool and not a playground. He stated that Ms. Hobgood had come up with the same idea as a museum piece. He asked the Council to tell the group what they wanted done to the caboose at City Park. He stated that in reference to maintenance it would have to be maintained by the City just as other City park equipment was being maintained and the same for security and stated that this is what the Burlington Police Department was supposed to do. He stated that there was no individual liability policy on every piece of equipment at the City Park - only one liability policy.

Councilmember Wall agreed that the Council should go back and rethink, leave the caboose there and redo it. He stated that if Mr. Graves' group was raising the money anyway, the group could discuss the flooding issue with City staff.

Mr. Graves stated that the criteria was that somebody step forward and fix the cabooses and that was what his group has tried to do at the City Park. He stated that his proposal stated that the City would not have to raise one dime toward this renovation project.

Mr. Owen reviewed the discussion of the caboose. He stated that the issue first was to decide whether to sell the cabooses and that was when there was discussion brought up concerning the public outcry to save them. He stated that at that meeting, Councilmembers stated that they would see if there was anyone from the public who wished to step forward to work on the cabooses. He stated that Ms. Hobgood stepped forward at the previous meeting with the museum concept; Mr. Graves indicated he had an interest with the one at the park. He further stated that this public hearing was to determine the use of the two cabooses. He stated that if the Council agreed that the one at the park would be just a visible structure, staff would determine what was required to accomplish that. Mr. Owen stated that the flooding issue would not go away and asked Mr. Graves to sit down with staff to discuss what would be needed. He stated that if the Council just wanted the caboose to be looked at, a big red box, it would have to be secured.

Councilmember Huffman stated that the Recreation and Parks Commission should have input to determine if the space could be used for something else and how it fit into the overall recreation program and asked if this item could be referred to the Recreation and Parks Commission.

Mr. Wilton Enoch stated that he volunteered his time to help Mr. Graves on this project, and based on the local media Council wanted someone to step forward and take the job. He stated that the Council should have written a proposal to the public and then asked who wanted to take on the project. He stated that the City Council should come up with an idea to save the caboose to keep something that represented Burlington in the old days.

Mr. Sid Smith asked what the time line would be to renovate the caboose and meet with the Recreation staff, and Councilmember Huffman replied that it would be nice to have it done by the summertime.

Mr. Owen stated that if the Council chose to keep the caboose and not make it a museum piece, Council would have two options: turn it into playground equipment or put a four-foot fence around it to view only so that no one could get in and climb on it. He stated that if the Council declared it playground equipment, an investment would be required to make it safe.

Councilmember Huffman asked Mr. Laws to take this request to a special meeting of the Parks and Recreation Commission.

Mr. Owen stated that Dr. Jim Drummond would be at the first March 7, 2006, City Council meeting to make a presentation on Parks and Recreation and asked Mr. Laws to get the Commission together before then to discuss this item.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing.

Mr. Sid Smith asked if the committee could attend the meeting, and Mayor Ross stated absolutely.

Mr. Laws stated that the commission meetings are open to the public.

Councilmember Starling thanked Mr. Graves for coming forward with his plan and apologized for the duplication. He told Mr. Graves that he appreciated his willingness to be flexible.

PUBLIC HEARINGS:

CHANGE NAME OF STREET - SUMAC LANE

Mayor Ross announced that a public hearing had been scheduled to consider renaming the portion of Sumac Lane between Elderwood Lane and Columbine Lane to Surich Drive.

Planning Director Bob Harkrader stated that the name change would help eliminate confusion with the part of Sumac Lane that ended in a cul-de-sac.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following resolution:

06-05

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURLINGTON TO
CHANGE A CERTAIN PORTION OF SUMAC LANE TO SURICH DRIVE

WHEREAS, the City Council of the City of Burlington, North Carolina, has been requested that a certain portion of Sumac Lane located south of Elderwood Lane be changed to Surich Drive; and,

WHEREAS, the City Council has considered this request; and,

WHEREAS, after due consideration of this matter, the City Council desires to change the name of a portion of said street.

NOW, THEREFORE, be it resolved by the City Council of the City of Burlington:

Section 1: That a portion of Sumac Lane located south of Elderwood Lane be changed to Surich Drive.

Section 2: That this resolution shall take effect upon passage.

The foregoing resolution was seconded by Councilmember Starling, and it was passed unanimously.

REZONING - PROPERTY ON CROUSE LANE

Mayor Ross announced that a public hearing had been scheduled to consider rezoning from R-12, Residential District, to O-I, Office-Institutional District, the property located at the easternmost (dead-end) right-of-way line of Crouse Lane approximately 650 feet east of Kirkpatrick Road and being as shown on Alamance County Tax Map 3-22D-20.

Mr. Harkrader stated that this would be an extension of existing Office-Institutional zoning to the creek that was a natural boundary.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

06-04

ORDINANCE TO AMEND OFFICIAL ZONING MAP (Rezone Property on Crouse Lane)

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan are hereby amended by rezoning from R-12, Residential District, to O-I, Office-Institutional District, the property located at the easternmost (dead-end) right-of-way line of Crouse Lane approximately 650 feet east of Kirkpatrick Road and being as shown on Alamance County Tax Map 3-22D-20.

Section 2. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 3. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Huffman, Starling and Wall.

REZONING - PROPERTY ON GARDEN ROAD

Mayor Ross announced that a public hearing had been scheduled to rezone from B-2, General Business District, (Unified Business Development) to CB, Conditional Business District, for a Unified Business Development on property located on Garden Road approximately 280 feet northwest of Huffman Mill Road as shown on Alamance County Tax Map 3-19, Lots 5, 50, 66 and 67. The final plat for Huffman Mill Plaza Limited Partnership dated November 15, 1995, contains a note that prohibits development on Lots 2 (shown as ACTM 3-19-66) and 3 (shown as ACTM 3-19-67) without subsequent approval by the City of Burlington prior to development.

Planning Director Harkrader stated that Lot 67 was not a part of what was being requested for approval. He stated that what was requested for approval was the balance of the property including Lot 66 for a restaurant pursuant to the Conditional zoning application.

Upon motion by Councilmember Starling, seconded by Councilmember Huffman, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

06-05

ORDINANCE TO AMEND OFFICIAL ZONING MAP (Rezone Property on Garden Road)

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan are hereby amended by rezoning from B-2, General Business District (Unified Business Development), to CB, Conditional Business District (Unified Business District), subject to those conditional uses with limitations as set forth in Sections 2, 3 and 4 of this ordinance the area described as follows:

Property located on Garden Road approximately 280 feet northwest of Huffman Mill Road as shown on Alamance County Tax Map 3-19, Lots 5, 50 and 66.

Section 2. That the rezoning from B-2 (Unified Business District) to CB (Unified Business District) is hereby authorized subject to the following use and development conditions:

Use Condition

To allow a fast-food restaurant on ACTM 3-19-66 (shown as Lot 2 on rezoning exhibit).

Development Conditions

1. Existing conditions are not required to meet the Unified Business Development ordinance.
2. Tenant pole sign for Lot 2 to meet the provisions of the Burlington Sign Ordinance.
3. Residential buffer (existing R-15, Residential District) to remain undeveloped.

Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed including site plans and other submissions, unless subsequently changed or amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 6. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Huffman, Starling and Wall.

NEW BUSINESS:

GEOGRAPHIC INFORMATION SYSTEM CONTRACT - WATER AND SEWER MAPPING CONVERSION

Mayor Ross announced that the City Council would consider approval of a proposed contract with McKim and Creed, P.A., for improvements to the City's Geographic Information System. He stated this project was the initial step in the enhancement of the City's water and sewer mapping capabilities and that funds for this project were reserved in the 2005-06 budget.

Development and Technical Services Director Jim Lauritsen stated that this project was to enhance mapping capabilities. He stated that with this new software the City would be able to link data to geography that would make it more accurate and that this was the first phase of a multi-year project.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to approve the GIS contract.

RESOLUTION - LAND FOR TOMORROW

Mayor Ross announced that the City Council would consider adopting a resolution for the Land For Tomorrow statewide initiative. Land For Tomorrow is an effort to have the General Assembly place a \$1 billion bond issue before the state voters November 2006. If passed the bond would provide \$200 million annually for five years to protect and invest in the state's open lands, rivers, forests and historic places.

Recreation Director Tony Laws stated that this request came to Council with a favorable recommendation from the Recreation and Parks Commission and that it was a statewide initiative. He stated that it would be a one billion dollar bond issue and hoped that it would be placed on the November 2006 ballot.

Councilmember Starling moved the adoption of the following resolution:

06-06

LAND FOR TOMORROW RESOLUTION

WHEREAS, the City of Burlington is committed to protecting lands critical to the future of North Carolina's drinking water, economy, and quality of life, and

WHEREAS, North Carolina is losing more than 100,000 acres of those special places to populations pressures each year, and

WHEREAS, North Carolina's population is expected to grow by 50 percent in the next 25 years, and

WHEREAS, the important tourism industry can only survive with natural beauty, clean water and scenic visits, and

WHEREAS, there is inadequate funding for protecting stream banks and floodplains, legacy forests, prime farmlands, local parks and recreation, state parks, game lands, natural, scenic and historic places, and

WHEREAS, there is no second chance to protect North Carolina's great resources and costs will only increase in the future, and

WHEREAS, additional state funding will leverage twice as much funding from federal, private and local sources, and

NOW THEREFORE BE IT RESOLVED, that the City of Burlington urges the 2006 General Assembly to enact legislation authorizing a bond referendum to increase conservation spending in North Carolina by \$200 million per year.

The foregoing resolution was seconded by Councilmember Huffman, and it was passed unanimously.

CONSENT AGENDA ITEM A

The City Council will consider adopting a resolution to set a date of public hearing for March 7, 2006, 7:30 p.m., to consider, under public interest authority, water improvements on Rockwood Avenue from West Front Street northwardly to the dead end.

Development and Technical Services Director Jin Lauritsen stated that there was a two-block area of Rockwood Avenue within the City's newly annexed Glen Raven area that had no waterline. He explained that a petition for water was submitted but there was not a majority of the property owners that would have an interest in paying assessments to have a water line installed. He stated that the petition was one signature shy of having a majority. He stated that within the rules of the City Charter, the Council could set a date of public hearing and consider the request under public interest. He stated that if the Council were to approve it at a public hearing, then all the property owners would be assessed.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to set a date of public hearing for March 7, 2006, at 7:30 p.m.

REQUEST AND COMMUNICATION:

MR. GAYLE WILSON - NC SENATE BILL 951

Mayor Ross announced that Mr. Gayle Wilson had requested to address the City Council concerning North Carolina Senate Bill 951.

Mr. Wilson, Solid Waste Director of Orange County and a resident of Burlington, asked the Council to look at Senate Bill 951, Solid Waste Program, and to approve a resolution to oppose the legislation and to forward it to the local representative and to the North Carolina League of Municipalities. He stated that the bill had passed the Senate.

Mr. Owen stated that staff had reviewed Senate Bill 951 in July 2006 and that staff agreed with Mr. Wilson to oppose it.

Public Works Director Gary Hicks stated that Senate Bill 951 dealt with a displacement of a solid waste company that may be doing business in an area that is annexed by a municipality. He stated that the bill would increase the City's cost of an annexation requiring payments to a solid waste firm. Mr. Hicks stated that the bill would place additional advertisement and personnel costs on the City. He stated that the bill had passed the Senate and had been tabled to the House Commerce Committee.

PUBLIC COMMENT PERIOD:

There was no public comment.

ADJOURN:

Upon motion by Councilmember Starling, seconded by Councilmember Huffman, it was resolved unanimously to adjourn.

Jondeen D. Terry
City Clerk